

1  
2  
3  
4 **UNITED STATES DISTRICT COURT**  
5 **DISTRICT OF NEVADA**  
6

7 SAFECO INSURANCE COMPANY OF  
8 AMERICA,

9 Plaintiff(s),

10 v.

11 AIR VENT, INC., et al.,

12 Defendant(s).

Case No. 2:20-cv-01579-JAD-NJK

**Order**

[Docket No. 49]

13 This case has stagnated. The parties previously sought to effectively hold the case in  
14 abeyance while Air Vent attempted to secure third-party Defendant PowerMax Electric's  
15 participation through service in China effectuated pursuant to the Hague Convention. *See* Docket  
16 No. 25 at 2. The Court stated unequivocally that it would not hold the case in abeyance for that  
17 purpose. Docket No. 26 at 1-2. Nonetheless, the parties have conducted no affirmative discovery  
18 of any kind in the more than two months since the scheduling order was issued, indicating instead  
19 that they prefer to wait for PowerMax Electric to appear (if it ever does) before conducting  
20 discovery. Docket No. 49 at 2.<sup>1</sup> To that end, the parties are back before the Court asking for a  
21 six-month extension to all deadlines based on their continued desire to effectively hold the case in  
22 abeyance. *See id.* at 3.<sup>2</sup>

23 <sup>1</sup> Despite filing answers more than two months ago, Docket Nos. 30-31, the stipulation  
24 further insinuates that the appearing third-party defendants have not served initial disclosures, *see*  
25 Docket No. 49 at 2. No explanation is proffered as to why that is the case.

26 <sup>2</sup> The pending stipulation also indicates that an extension is warranted based on "health  
27 concerns due to COVID 19." *See id.* at 2. No elaboration is provided. Of course, it is well-settled  
28 that there are available means to keep discovery moving forward notwithstanding pandemic-  
related restrictions. *See, e.g., Swenson v. GEICO Cas. Co.*, 336 F.R.D. 206, 210 (D. Nev. Aug.  
19, 2020) (collecting cases regarding remote depositions). It is also well-settled that the pandemic  
did not erase the governing standards and that bald reference to the pandemic is not grounds to  
obtain relief. *See id.* The reference to the pandemic is unpersuasive here. The stipulation also  
indicates that additional time is needed for experts to review voluminous records and for the parties  
to otherwise take discovery. *See* Docket No. 49 at 2. No showing has been made why the deadlines

1 The pending stipulation does not provide meaningful discussion, supported by legal  
2 authority, that the relief being sought is appropriately granted based on the appearing parties'  
3 desire to conduct discovery only after a foreign party appears months (or longer) down the road.  
4 Moreover, the rules envision that discovery may proceed in such scenario, with mechanisms in  
5 place to bring the late-appearing party up-to-speed on the discovery conducted. *See* Local Rule  
6 26-5.<sup>3</sup>

7 Accordingly, the stipulation is **DENIED** without prejudice. To the extent the parties  
8 continue to seek a schedule whereby discovery and the case in general are delayed pending an  
9 appearance by PowerMax Electric, then a request with meaningfully developed argument must be  
10 presented.

11 IT IS SO ORDERED.

12 Dated: May 13, 2021

13   
14 \_\_\_\_\_  
Nancy J. Koppe  
United States Magistrate Judge  
15  
16  
17  
18  
19  
20  
21  
22  
23

24 \_\_\_\_\_  
25 already in place cannot be met through the parties' exercise of reasonable diligence in conducting  
26 discovery. *See Johnson v. Mammoth Recreations, Inc.*, 975 F.2d 604, 609 (9th Cir. 1992). As the  
governing standard has not been addressed or satisfied, this assertion is also unpersuasive.

27 <sup>3</sup> The pending stipulation also seeks an extension of the already-expired deadline to amend  
28 the pleadings or add parties. *See id.* at 3. Requests to extend expired deadlines must be supported  
by an additional showing of excusable neglect. *See* Local Rule 26-3; *see also* Fed. R. Civ. P.  
6(b)(1)(B). No attempt to show excusable neglect has been made.